

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SOMALTUS LLC

Plaintiff,

vs.

TOSHIBA AMERICA INFORMATION
SYSTEMS, INC.,

Defendant.

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Case No:

PATENT CASE

COMPLAINT

Plaintiff Somaltus LLC (“Plaintiff” or “Somaltus”) files this Complaint against Toshiba America Information Systems, Inc. (“Defendant” or “Toshiba”) for infringement of United States Patent No. 7,657,386 (hereinafter “the ‘386 Patent”).

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff is a Texas limited liability company with its principal office located at 2591 Dallas Parkway, Suite 300, Frisco, Texas 75034.

4. On information and belief, Defendant is a California corporation with a principal office located at 9740 Irvine Boulevard, Irvine, California 92618.

5. This Court has personal jurisdiction over Defendant because Defendant has

committed, and continues to commit, acts of infringement in the state of Texas, has conducted business in the state of Texas, and/or has engaged in continuous and systematic activities in the state of Texas. Upon information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in the Eastern District of Texas.

VENUE

6. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391(c) and 1400(b) because Defendant is deemed to reside in this district. In addition, and in the alternative, Defendant has committed acts of infringement in this District.

COUNT I **(INFRINGEMENT OF UNITED STATES PATENT NO. 7,657,386)**

7. Plaintiff incorporates paragraphs 1 through 6 herein by reference.

8. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, *et seq.*

9. Plaintiff is the owner by assignment of the '386 patent with sole rights to enforce the '386 patent and sue infringers.

10. A copy of the '386 Patent, titled "Integrated Battery Service System," is attached hereto as Exhibit A.

11. The '386 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

12. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least claim 1, of the '386 patent by making, using, importing, selling, and/or offering for sale portable computing products with a battery service system covered by one or more claims of the '386 patent.

13. Defendant sells, offers to sell, and/or uses portable computing products including, without limitation, the Tecra Z40-C1420 laptop computer (the “Product”), for example, and any similar devices, which infringe at least Claim 1 of the ‘386 Patent.

14. On information and belief, the Product includes a battery service system including a processor (e.g., the Intel Core), which is configured to receive signals from connectors coupled to a battery (e.g., the Product’s rechargeable battery).

15. The Product also includes an input device (e.g., keyboard) coupled to the processor.

16. The Product also includes a display (e.g., the computer’s screen) coupled to the processor.

17. The Product also includes a memory (e.g., 8 GB flash). On information and belief, the memory is configured to store control codes.

18. The Product includes an interface (e.g., USB interface) for communicating with other devices. The interface comprises one or more of a USB port, a serial port, and an IEEE-1394 port (e.g., the interface comprises a USB port).

19. On information and belief, the processor executes the control codes to continually adjust a charge level to the battery. The Product includes a function called Toshiba Eco Charge Mode, according to which the battery charge is set to a threshold level (e.g., 80%). On information and belief, the battery charge functions at one level when the capacity is less than the threshold and at a different charge level (or at a zero level) when the charging capacity exceeds the threshold. Thus, the system adjusts the charging level applied to the battery and does so continuously as the battery charge capacity exceeds and drops below the threshold.

20. Defendant’s actions complained of herein will continue unless Defendant is

enjoined by this court.

21. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

22. Plaintiff is in compliance with 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

(a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;

(b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receive notice of the order from further infringement of United States Patent No. 7,657,386 (or, in the alternative, awarding Plaintiff a running royalty from the time of judgment going forward);

(c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;

(d) Award Plaintiff pre-judgment and post-judgment interest and costs; and

(e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: July 12, 2016

Respectfully submitted,

/s/Jay Johnson

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EXHIBIT A